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Appl. No. 10/526,326
Amdt. dated December 6, 2006
Reply to Office Action of November 14, 2006

PATENT**REMARKS/ARGUMENTS****Response to Restriction Requirement**

In response to the restriction requirement, Applicants elect Group II, claims 2-4, 7 and 36, with traverse. With respect to the species election, Applicants elect CGX-2 (*i.e.*, NFXL1), as described in SEQ ID NOs: 11 and 12.

The Examiner divides the present invention's polypeptide (claim 1) and polynucleotide, vector, and host cell (claims 2-47, and 36) into Groups I and II, respectively. This division is respectfully traversed in view of PCT Rules 13.1 and 13.2 and the PCT Search and Examination Guidelines. At a minimum, Applicants respectfully request that the Examiner examine the inventions of Groups I and II together.

The Examiner alleges that the inventions listed as Groups I-XLIII do not relate to a single general inventive concept under PCT Rule 13.1. As support, the Examiner has cited Peyman *et al* (U.S. Patent Publication 2003/0148935). The Examiner alleges that the technical feature recited in claim 1 (the amino acid sequences of SEQ ID NO: 2, 4, 6, 8, 10 and 12 having one or more acid substitutions, deletions, insertions, and/or additions) is not special because Peyman *et al.* disclose SEQ ID NO: 2, a PNF1 protein, which is 96.8% identical to SEQ ID NO: 4 of the present application.

However, NFXL1 (CGX-2), which Applicants elect, is structurally different from the PNF1 protein of Peyman *et al.* Since the Examiner does not present any prior art that may anticipate the present invention's NPXL1, Applicants believe that the NFXL1 polypeptide and corresponding polynucleotides serve as a special technical feature that contributes over the prior art and thus can unify claims 1, 2-4, 7 and 36, at least with respect to NFXL1 polypeptides and corresponding polynucleotides.

Furthermore, we respectfully submit that Groups I and II are properly related under PCT Rules 13.1 and 13.2 in that the polynucleotides of Group II encode the polypeptides

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of Group I. Example 39 of the PCT International Search and Preliminary Examination Guidelines¹ illustrates the case between the following claims:

Claim 1. Isolated protein X having SEQ ID NO: 1.

Claim 2. Isolated DNA molecule encoding protein X of claim 1.

The Guidelines conclude that "[t]he claimed DNA molecule encodes protein X, and therefore protein X and the DNA encoding protein X share a corresponding technical feature. Consequently, the claims have unity of invention." In view of the above example, Applicants respectfully assert that unity between Groups I and II should also be acknowledged in the instant case.

Accordingly, the Examiner is respectfully requested to reconsider the restriction requirement and examine all claims in Groups I and II in a single application.

¹ M.P.E.P. Appendix A1, Annex B, "Unity of Invention," section (I) states that examples giving guidance on how to the "unity of invention" principles may be interpreted in particular cases are set out in "the PCT International Search and Preliminary Examination Guidelines."

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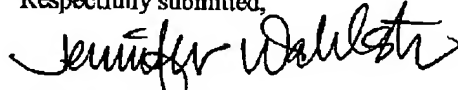
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CONCLUSION

In view of the foregoing, Applicants believe all claims now pending in this Application are in condition for allowance. The issuance of a formal Notice of Allowance at an early date is respectfully requested.

If the Examiner believes a telephone conference would expedite prosecution of this application, please telephone the undersigned at 415-576-0200.

Respectfully submitted,



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